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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,898	06/27/2003	William A. Groll	916-030481	7789
28289	7590	02/14/2005	EXAMINER	
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.			ZIMMERMAN, JOHN J	
700 KOPPERS BUILDING			ART UNIT	
436 SEVENTH AVENUE			PAPER NUMBER	
PITTSBURGH, PA 15219			1775	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/608,898	Applicant(s) GROLL, WILLIAM A.	
	Examiner John J. Zimmerman	Art Unit 1775	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

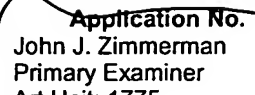
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's arguments and the Groll declaration submitted with applicant's response have been carefully considered. The Groll declaration does not present factual matter, but rather only presents speculation about the intentions of the Stein (U.S. Patent 3,340,597). The declaration is not convincing since the composite materials of Stein's examples are merely examples and Stein is not limited to only creating composites in the dimensions of his examples. One of ordinary skill in the art would understand that the composites of Stein could be created in any reasonable dimensions which would be practical to Stein's process and practical to the manufacture of Stein's disclosed end products (e.g. pans). The examiner stresses that Stein's examples are merely examples for making his composites and the dimensions of the examples are not to be literally interpreted by applicant as the only dimensions that can or should flow from Stein's disclosure. In any event, the declaration's conclusions that drawn pans are "round" are incorrect (e.g. drawn pans can be rectangular) and the conclusions that pans of 2-3" diameter are "unlikely" are not commensurate with known cookware (e.g. rectangular mini loaf pans 3"x6" at www.williams-sonoma.com). The examiner further notes that other very small diameter pans that are commonly and commercially available are small pans for melting butter. In any event, it should also be noted that arguments about pan size are not commensurate with the limitations of the pending claims. The Groll declaration further states that Stein's "idea of what stainless steel-bonded aluminum cookware should be" is "stainless steel on the cooking side of the vessel, while simultaneously allowing utilization of the heat transmission qualities of the aluminum on the heating or fore side of the pan". The examiner notes that while Stein notes advantages for this particular arrangement in cookware, Stein clearly does not intend that this is the only possible arrangement intended for his cookware. Example 3 clearly shows otherwise. In Example 3, Stein uses stainless steel as the exterior of the pan. Thus it would be understood by one of ordinary skill in the art that Stein also intends that his other disclosed embodiments (e.g. aluminum sandwiched between stainless steel and stainless steel sandwiched between aluminum - column 2, lines 45-50)

Application No.
John J. Zimmerman
Primary Examiner
Art Unit: 1775

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